

REMARKS

This response is being made in the first month following the three months statutorily provided for response. Therefore, a request to purchase one additional month for reply, from 18-MAR-99 to 19-APR-99, is enclosed along with the required fee.

In the Office Action the Examiner requested correction of the abstract for use of legal phraseology. That correction has been made in the above amendments

The Examiner rejected Claims 1-8 and 9-20 under 35 U.S.C. § 103(a) as being unpatentable over **Weinberg** (U.S. Patent No. 5,814,135) in view of **Holter et al.** (U.S. Patent No. 5,015,451) and **Scheinberg** (U.S. Patent No. 3,693,327).

The Examiner reasoned that **Weinberg** disclosed an air filter with “porous polyvinyl acetal polymer to bind the iodine vapor passing through.” **Holter et al.** disclosed an air filter employing humidifying agents, and **Scheinberg** teaches a filter having a visual indicator of saturation.

Claim Rejections Under 35 U.S.C. § 103

Applicant respectfully traverses the Examiner’s finding of obviousness and requests reexamination based on the following remarks. The central premise of the Examiner’s obviousness finding is that **Weinberg** “discloses a disinfecting air filter comprising on an inlet side an iodinating layer wherein the filter material is impregnated with elemental iodine, and on the outlet side a porous polyvinyl acetal polymer to bind the iodine vapor passing

through.”(Emphasis added). However, a careful inspection of the reference does not support this assertion. Column 4 lines 21-29 reads:

The filter **14** can contain any of a number of filter materials. A HEPA (High Efficiency Particulate Air) filter can be used to remove both particulates and pathogens. Other popular filtering material [sic] such as glass wool or polyvinyl acetal sponge can be advantageously used to remove particulates and pathogens. Alternatively, a filter impregnated with a germicidal agent such as iodine can be used for pathogen inactivation.

This reference teaches that polyvinyl acetal sponge is well known for removing particulates. There is no mention of a combination between polyvinyl acetal and iodine. Note that the sentence mentioning iodine starts “alternatively”. This separates iodine from polyvinyl acetal. If **Weinberg** had had any knowledge that polyvinyl acetal could be used to remove iodine, he would have so stated rather than separating the polyvinyl acetal from germicides with “alternatively”. Clearly the notion was that polyvinyl acetal could filter pathogens our **OR** (alternatively) one could add a germicide like iodine to kill the pathogens. **Weinberg** seems to contain no thought of removing iodine vapor. No claims of the **Weinberg** patent combine iodine and polyvinyl acetal. It is clear that that inventor had no knowledge or thought of such a combination. Perhaps this is because the device is not intended for use in a mask where the iodine would be directly inhaled. Perhaps the corona discharge that forms the heart of the **Weinberg** invention somehow neutralizes the iodine.

Applicant respectfully contends that the Examiner is using impermissible hindsight to read Applicant’s invention into **Weinberg**. Because **Weinberg** did not teach or suggest that

polyvinyl acetal can be used to remove iodine vapor, and because **Weinberg** did not even clearly suggest the combination of iodine and polyvinyl acetal, Applicant respectfully requests the Examiner to withdraw the claim rejections made under 35 U.S.C. §103(a).

Applicant respectfully submits that the case is now in condition for allowance and requests an early notification of the same. Questions, suggestions, and comments from the Examiner are welcomed. If the Examiner believes that a telephone conference would help further the prosecution of the case, the Examiner is requested to contact the undersigned attorney at the listed telephone number. It is not believed that any additional fees are owed in this case; however, you are hereby authorized to charge any necessary fees and credit any excess fees to Deposit Account 07-1853.

Respectfully submitted,

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